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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,964	05/09/2007	Jeffrey D. Edwards	81443-001US0	9819

22504 7590 12/23/2010  
DAVIS WRIGHT TREMAINE, LLP/Seattle  
1201 Third Avenue, Suite 2200  
SEATTLE, WA 98101-3045

EXAMINER
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CAMPBELL, VICTORIA P

ART UNIT	PAPER NUMBER
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3763

NOTIFICATION DATE	DELIVERY MODE
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12/23/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

seapatentdocket@dwt.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/595,964	<b>Applicant(s)</b> EDWARDS, JEFFREY D.	
	<b>Examiner</b> VICTORIA P. CAMPBELL	<b>Art Unit</b> 3763	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-10,12,13,16-20,23-27,29,30 and 33-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-10,12,13,16-20,23-27,29,30 and 33-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This is the initial Office Action based on the 10/595964 application filed May 9, 2007.

Claims 1-3, 6-10, 12, 13, 16-20, 23-27, 29, 30, and 33-39 as amended and newly presented June 25, 2010 are currently pending and considered below.

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 25, 2010 has been entered.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-3, 6-10, 12, 13, 16-20, 23-27, 29, 30, and 33-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding independent claims 1, 19, and 34, the limitation "each said active electromagnetic field portion including an electromagnetic field packet having a plurality of generally rectangular magnetic field pulses having a duration of between 25us and

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100ms delivered at a frequency of between 1 Hz and 100 Hz" is unclear. With the successive listing of portions contained within portions, the examiner can not discern which element(s) have a duration of between 25us and 100ms and which element(s) are delivered at a frequency of between 1 Hz and 100 Hz. As best understood by the examiner by giving the claim its most literal reading, both the duration limitation and the frequency limitation are intended to refer to the "generally rectangular magnetic field pulses."

5. Claims 1, 19, and 34 recite the limitation "the inactive field portion" in the claims. There is insufficient antecedent basis for this limitation in the claim. The examiner is unsure as to whether the "inactive field portion" is the same or different from the "inactive electromagnetic field portion" or whether it is a part of the electromagnetic field packet or refers to a pulse portion.

6. Claims 3, 12, 20, and 29 recite the limitation "the energisation signal packet" in the claims. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 29 is dependent upon a cancelled claim.

8. Claims 2, 6-10, 13, 16-18, 23-27, 30, 33, and 35-39 are rejected for their dependency upon a rejected base claim.

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 1-3, 6-10, 12, 13, 16-20, 23-27, 29, 30, and 33-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

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The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Based on the interpretation of the phrase from claims 1, 19, 34 listed above, the examiner notes that the specification does not provide support for the limitation of the pulses being delivered at a frequency of between 10 and 100 Hz. The instant specification seems to only support the packets being delivered at the stated frequency, as shown on Page 7, lines 27-34.

11. Claims 2, 3, 6-10, 12, 13, 16-18, 20, 23-27, 29, 30, 33, and 35-39 are rejected for their dependency upon a rejected base claim.

### ***Response to Arguments***

12. Applicant's arguments with respect to the above claims have been considered but are moot in view of the new ground(s) of rejection.

13. The examiner notes that, upon removal of the new matter from the claims of the application, the examiner will return to the original art and grounds of rejection presented in the Final Rejection dated December 8, 2009 and will address any pertinent arguments at that time.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA P. CAMPBELL whose telephone number is (571)270-5035. The examiner can normally be reached on Monday-Friday, 7-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Victoria P Campbell  
Examiner, AU 3763

/Nicholas D Lucchesi/  
Supervisory Patent Examiner, Art Unit 3763